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NOTICE OF ALLOWANCE AND FEE(S) DUE

44367

7590

07/27/2009

SCHWEGMAN, LUNDBERG & WOESSNER/OPEN TV
P.O. BOX 2938
MINNEAPOLIS, MN 55402-0938

EXAMINER

PARRY, CHRISTOPHER L.

ART UNIT

PAPER NUMBER

2421

DATE MAILED: 07/27/2009

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/754,650

01/03/2001

Eric E. Del Sesto

2050.013U1

2979

TITLE OF INVENTION: INTERACTIVE CONTENT DELIVERY METHODS AND APPARATUS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$300	\$0	\$1810	10/27/2009

THE APPLICATION IDENTIFIED ABOVE HAS BEEN EXAMINED AND IS ALLOWED FOR ISSUANCE AS A PATENT. PROSECUTION ON THE MERITS IS CLOSED. THIS NOTICE OF ALLOWANCE IS NOT A GRANT OF PATENT RIGHTS. THIS APPLICATION IS SUBJECT TO WITHDRAWAL FROM ISSUE AT THE INITIATIVE OF THE OFFICE OR UPON PETITION BY THE APPLICANT. SEE 37 CFR 1.313 AND MPEP 1308.

THE ISSUE FEE AND PUBLICATION FEE (IF REQUIRED) MUST BE PAID WITHIN THREE MONTHS FROM THE MAILING DATE OF THIS NOTICE OR THIS APPLICATION SHALL BE REGARDED AS ABANDONED. THIS STATUTORY PERIOD CANNOT BE EXTENDED. SEE 35 U.S.C. 151. THE ISSUE FEE DUE INDICATED ABOVE DOES NOT REFLECT A CREDIT FOR ANY PREVIOUSLY PAID ISSUE FEE IN THIS APPLICATION. IF AN ISSUE FEE HAS PREVIOUSLY BEEN PAID IN THIS APPLICATION (AS SHOWN ABOVE), THE RETURN OF PART B OF THIS FORM WILL BE CONSIDERED A REQUEST TO REAPPLY THE PREVIOUSLY PAID ISSUE FEE TOWARD THE ISSUE FEE NOW DUE.

HOW TO REPLY TO THIS NOTICE:

I. Review the SMALL ENTITY status shown above.

If the SMALL ENTITY is shown as YES, verify your current SMALL ENTITY status:

A. If the status is the same, pay the TOTAL FEE(S) DUE shown above.

B. If the status above is to be removed, check box 5b on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and twice the amount of the ISSUE FEE shown above, or

If the SMALL ENTITY is shown as NO:

A. Pay TOTAL FEE(S) DUE shown above, or

B. If applicant claimed SMALL ENTITY status before, or is now claiming SMALL ENTITY status, check box 5a on Part B - Fee(s) Transmittal and pay the PUBLICATION FEE (if required) and 1/2 the ISSUE FEE shown above.

II. PART B - FEE(S) TRANSMITTAL, or its equivalent, must be completed and returned to the United States Patent and Trademark Office (USPTO) with your ISSUE FEE and PUBLICATION FEE (if required). If you are charging the fee(s) to your deposit account, section "4b" of Part B - Fee(s) Transmittal should be completed and an extra copy of the form should be submitted. If an equivalent of Part B is filed, a request to reapply a previously paid issue fee must be clearly made, and delays in processing may occur due to the difficulty in recognizing the paper as an equivalent of Part B.

III. All communications regarding this application must give the application number. Please direct all communications prior to issuance to Mail Stop ISSUE FEE unless advised to the contrary.

IMPORTANT REMINDER: Utility patents issuing on applications filed on or after Dec. 12, 1980 may require payment of maintenance fees. It is patentee's responsibility to ensure timely payment of maintenance fees when due.

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Complete and send this form, together with applicable fee(s), to: **Mail**

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INSTRUCTIONS: This form should be used for transmitting the ISSUE FEE and PUBLICATION FEE (if required). Blocks 1 through 5 should be completed where appropriate. All further correspondence including the Patent, advance orders and notification of maintenance fees will be mailed to the current correspondence address as indicated unless corrected below or directed otherwise in Block 1, by (a) specifying a new correspondence address; and/or (b) indicating a separate "FEE ADDRESS" for maintenance fee notifications.

CURRENT CORRESPONDENCE ADDRESS (Note: Use Block 1 for any change of address)

Note: A certificate of mailing can only be used for domestic mailings of the Fee(s) Transmittal. This certificate cannot be used for any other accompanying papers. Each additional paper, such as an assignment or formal drawing, must have its own certificate of mailing or transmission.

44367 7590 07/27/2009

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Certificate of Mailing or Transmission

I hereby certify that this Fee(s) Transmittal is being deposited with the United States Postal Service with sufficient postage for first class mail in an envelope addressed to the Mail Stop ISSUE-FEE address above, or being facsimile transmitted to the USPTO (571) 273-2885, on the date indicated below.

(Depositor's name)
(Signature)
(Date)

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/754,650	01/03/2001	Eric E. Del Sesto	2050.013US1	2979

TITLE OF INVENTION: INTERACTIVE CONTENT DELIVERY METHODS AND APPARATUS

APPLN. TYPE	SMALL ENTITY	ISSUE FEE DUE	PUBLICATION FEE DUE	PREV. PAID ISSUE FEE	TOTAL FEE(S) DUE	DATE DUE
nonprovisional	NO	\$1510	\$300	\$0	\$1810	10/27/2009

EXAMINER	ART UNIT	CLASS-SUBCLASS
PARRY, CHRISTOPHER L.	2421	725-146000

1. Change of correspondence address or indication of "Fee Address" (37 CFR 1.363).

☐ Change of correspondence address (or Change of Correspondence Address form PTO/SB/122) attached.

☐ "Fee Address" indication (or "Fee Address" Indication form PTO/SB/47; Rev 03-02 or more recent) attached. Use of a **Customer Number is required.**

2. For printing on the patent front page, list

- (1) the names of up to 3 registered patent attorneys or agents OR, alternatively, 1 _____
- (2) the name of a single firm (having as a member a registered attorney or agent) and the names of up to 2 registered patent attorneys or agents. If no name is listed, no name will be printed. 2 _____
- 3 _____

3. ASSIGNEE NAME AND RESIDENCE DATA TO BE PRINTED ON THE PATENT (print or type)

PLEASE NOTE: Unless an assignee is identified below, no assignee data will appear on the patent. If an assignee is identified below, the document has been filed for recordation as set forth in 37 CFR 3.11. Completion of this form is NOT a substitute for filing an assignment.

(A) NAME OF ASSIGNEE

(B) RESIDENCE: (CITY AND STATE OR COUNTRY)

Please check the appropriate assignee category or categories (will not be printed on the patent): ☐ Individual ☐ Corporation or other private group entity ☐ Government

4a. The following fee(s) are submitted:

- ☐ Issue Fee
- ☐ Publication Fee (No small entity discount permitted)
- ☐ Advance Order - # of Copies _____

4b. Payment of Fee(s): (Please first reapply any previously paid issue fee shown above)

- ☐ A check is enclosed.
- ☐ Payment by credit card. Form PTO-2038 is attached.
- ☐ The Director is hereby authorized to charge the required fee(s), any deficiency, or credit any overpayment, to Deposit Account Number _____ (enclose an extra copy of this form).

5. Change in Entity Status (from status indicated above)

- ☐ a. Applicant claims SMALL ENTITY status. See 37 CFR 1.27. ☐ b. Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).

NOTE: The Issue Fee and Publication Fee (if required) will not be accepted from anyone other than the applicant; a registered attorney or agent; or the assignee or other party in interest as shown by the records of the United States Patent and Trademark Office.

Authorized Signature _____ Date _____

Typed or printed name _____ Registration No. _____

This collection of information is required by 37 CFR 1.311. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, Virginia 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450.

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44367	7590	07/27/2009	EXAMINER	
SCHWEGMAN, LUNDBERG & WOESSNER/OPEN TV P.O. BOX 2938 MINNEAPOLIS, MN 55402-0938			PARRY, CHRISTOPHER L.	
			ART UNIT	PAPER NUMBER

2421

DATE MAILED: 07/27/2009

Determination of Patent Term Adjustment under 35 U.S.C. 154 (b) (application filed on or after May 29, 2000)

The Patent Term Adjustment to date is 593 day(s). If the issue fee is paid on the date that is three months after the mailing date of this notice and the patent issues on the Tuesday before the date that is 28 weeks (six and a half months) after the mailing date of this notice, the Patent Term Adjustment will be 593 day(s).

If a Continued Prosecution Application (CPA) was filed in the above-identified application, the filing date that determines Patent Term Adjustment is the filing date of the most recent CPA.

Applicant will be able to obtain more detailed information by accessing the Patent Application Information Retrieval (PAIR) WEB site (<http://pair.uspto.gov>).

Any questions regarding the Patent Term Extension or Adjustment determination should be directed to the Office of Patent Legal Administration at (571)-272-7702. Questions relating to issue and publication fee payments should be directed to the Customer Service Center of the Office of Patent Publication at 1-(888)-786-0101 or (571)-272-4200.

Notice of Allowability**Application No.**

09/754,650

Examiner

CHRIS PARRY

Applicant(s)

DEL SESTO ET AL.

Art Unit

2421

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERIT IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Appeal Brief filed on 04/29/2009.
2. ☒ The allowed claim(s) is/are 1-32.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
(a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
(b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

/John W. Miller/
Supervisory Patent Examiner, Art Unit 2421

REASONS FOR ALLOWANCE

Allowable Subject Matter

1. Claims 1-32 are allowed.

Reasons for Allowance

2. The following is an examiner's statement of reasons for allowance:

In response to applicant's appeal brief, the examiner agrees the art of record either alone or in combination fails to teach, disclose, or suggest the invention of claims 1, 8, 14, 17, 19, 20, 25, 26, 27, and 29 and in particular receiving one or more first video streams that include video data, first interactive content, and an interactive code, wherein the interactive code includes an option field and based on the value of the option field, producing a control signal to indicate the first interactive content is to be replaced with second interactive content in combination with other elements recited in the claims.

As to the prior art of record, Kalluri discloses a digital broadcast station 50 that is configured to insert interactive programming to a television signal originally conveyed by a remote network 10. The remote network 10 inserts trigger commands within the vertical blanking intervals (VBIs) of the television signal to control the loading and playing of the interactive program at the broadcast station 50. At the broadcast station 50, the trigger command is extracted from the television signal by trigger extraction unit 56 and provided to an interactive program source 58. The interactive program source 58

outputs an interactive program in accordance with the received trigger. The interactive program is then combined with the television signal to be broadcast to end users.

Kalluri discloses a system for providing interactive content (fig. 1, Col. 4, lines 56-67) comprising: hardware (16 – figure 1) adapted to receive one or more first video streams that include video data (from television signal source 12 – figure 1), and an interactive content code (200 - figure 2), wherein the interactive content code includes an option field (206 - figure 2), and wherein the hardware is further to produce a second video stream (i.e., combined signal (television-trigger) output from trigger insertion unit 16 to modulator 18 shown in fig. 1) (Col. 5, lines 1-6 & lines 18-30; Col. 6, lines 1-13 & lines 40-49); an interactive content code detector (trigger extraction unit 56 – figure 1) adapted to detect the interactive content code (200 – figure 2) and the option field (original or repeat field 206 – figure 2) (Col. 5, lines 43-52), and based on the value of the option field (i.e., either “0” or “1”; Col. 6, lines 40-49), to produce a control signal to indicate interactive content is to be inserted into the video signal (i.e., interactive program output from interactive program source 58 based on the extracted trigger 200) (Col. 8, lines 23-36); and a data insertion unit (interactive program source 58, data input unit 66, and AVI transmission unit 68 shown in figure 1) adapted to receive (from 56, Col. 5, lines 45-50) the control signal (extracted trigger from trigger extraction unit 56) and to insert (providing to AVI transmission unit 68 for combining with television signal, Col. 5, lines 53-62) interactive content (interactive program) into the second video stream (television signal output from A-V compression unit 64) to produce a third video stream (AVI signal, fig. 1) (Col. 5, lines 47-62).

Kalluri is thus silent on disclosing hardware adapted to receive one or more first video streams that include video data, first interactive content and an interactive content code.

Further prior art made of record, Hite discloses a system for targeting enhanced TV advertisements to individual consumers by delivering a plurality of advertisements to a display site. A command signal is sent to the display site commanding the display of a selected advertisement suited for the individual consumer (Abstract). Hite further discloses the commercials delivered to the display site may be categorized into three categories: 1) non-preemptable, 2) conditionally preemptable, or 3) unconditionally preemptable (Col. 2, lines 18-32). Hite discloses a viewer reaction feature can be included to cause additional relevant commercials to be presented in reaction a viewer's response to questions or other viewer interaction transmitted using the up stream reporting capability (Col. 3, lines 17-29). Furthermore, instructions are transmitted to and recorded by the digital recording device at the display site in advance of the commercial broadcast. These instructions tell the display which upcoming commercials to play and which to ignore or replace (Col. 3, line 60 to Col. 4, line 39).

Thus, Hite discloses a video stream comprising first interactive content (i.e., an enhanced commercial (Col. 3, lines 60-62) supporting interactivity (Col. 3, lines 17-29)) which is replaced with second interactive content (Col. 4, lines 29-32) based on the value of an option field (e.g., priority, Col. 2, lines 28-32) included in an interactive content code (i.e., instructions transmitted in advance; Col. 4, lines 10-21).

Hite fails to disclose applicant's invention as Hite is silent on teaching hardware adapted to receive one or more first video streams that include video data, first interactive content and an interactive content code, wherein the interactive content code includes an option field. Hite teaches sending the instructions or "interactive content code" in advance of the commercials or "interactive content" thus Hite fails to teach a receiving a first video stream including video data, first interactive content, and an interactive content code.

Additionally the teachings of Kalluri and Hite cannot be combined as Kalluri discloses a system that processes received video and interactive content code and based on the interactive content code inserts an interactive program at a broadcast station. Hite discloses replacing commercials or "interactive content" at a display site based on received instructions transmitted in advance.

Therefore, there is no motivation to combine the two references of record and the prior art fails to disclose, teach, or suggest receiving one or more first video streams that include video data, first interactive content, and an interactive code, wherein the interactive code includes an option field and based on the value of the option field, producing a control signal to indicate the first interactive content is to be replaced with second interactive content in combination with other elements recited in the claims.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Information Disclosure Statement

3. The information disclosure statement filed 17 June 2002 lists references DD - 09/334,131, FF - 09/431,001, and GG - 09/333,724 as Non Patent Literature Documents. However, these references were never published and made available to the public and thus have not been considered by the examiner. Further, reference EE has not been considered because the reference was the published and was considered as an affidavit from the inventor.

Conclusion

4. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

USPN 7,069,571 B1 to Del Sesto et al. - A method and apparatus facilitate the retirement of interactive applications in a manner associated with an external event and a program state of the interactive application..

Any inquiry concerning this communication or earlier communications from the examiner should be directed to CHRIS PARRY whose telephone number is (571) 272-8328. The examiner can normally be reached on Monday through Friday, 8:00 AM EST to 4:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOHN MILLER can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John W. Miller/
Supervisory Patent Examiner, Art Unit 2421

CHRIS PARRY
Examiner
Art Unit 2421

/C. P./
Examiner, Art Unit 2421